

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)
)
U Street Music Hall, LLC)
t/a U Street Music Hall)
)
New Application for Retailer's)
Class CX License) License No. 83219
) Order No. 2010-039
at premises)
1155 U Street, N.W.)
Washington, D.C. 20009)
_____)

U Street Music Hall, LLC, t/a U Street Music Hall ("Applicant")

E. Gail Anderson Holness, Chairperson, Advisory Neighborhood Commission 1B ("ANC 1B")

BEFORE: Charles Brodsky, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWAL OF PROTEST

The official records of the Alcoholic Control Board (Board) reflect that U Street Music Hall, LLC, t/a U Street Music Hall, Applicant for a new Retailer's Class CX license located at 1155 U Street, N.W., Washington D.C., and ANC 1B (the Parties) have entered into a Voluntary Agreement (Agreement) dated January 31, 2010, setting forth the terms and conditions that govern the operation of the Applicant's establishment. This Agreement constitutes a withdrawal of the Protest of this Application.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant, Chairperson E. Gail Anderson Holness, and Commissioner Raia are signatories to the Agreement.

U Street Music Hall, LLC
t/a U Street Music Hall
License No. 83219
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Accordingly, it is this 24th day of February 2010, **ORDERED** that:

1. The Application filed by U Street Music Hall, LLC, t/a U Street Music Hall for a new Retailer's Class CX license located at 1155 U Street, N.W., Washington, D.C., is **GRANTED**,

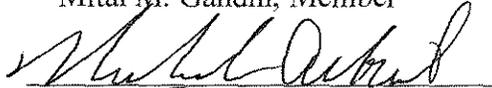
2. The Protest in this matter is hereby **WITHDRAWN**,

3. This above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and

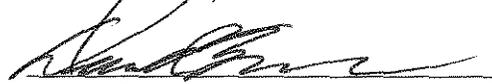
4. Copies of this Order shall be sent to the Applicant and ANC 1B.

District of Columbia
Alcoholic Beverage Control Board

Mital M. Gandhi, Member



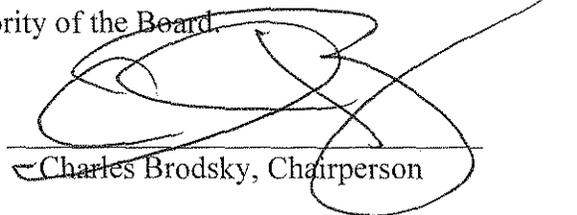
Nick Alberti, Member



Donald Brooks, Member

Herman Jones, Member

I dissent from the position taken by the majority of the Board.



Charles Brodsky, Chairperson

Pursuant to 23 DCMR § 1719.1 (April 2004), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 1250 U Street, N.W., Third Floor, Washington, D.C. 20009.

Voluntary Agreement Concerning Issuance of License
083219 to U Street Music Hall LLC

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE
REGULATION ADMINISTRATION

2010 ~~JAN 31~~ ^{Feb 09} A 9:25

THIS AGREEMENT made and entered into this 31st day of January, 2010, by and between U Street Music Hall LLC (Applicant) and ANC1B (Protestant) witnesses: KB

Whereas Applicant has filed application 083219 with the District of Columbia Alcoholic Beverage Control Board (ABC Board) for a new class CX license for premises to be known as U Street Music Hall, and to be located at 1115 U Street NW, Washington, DC 20009 (premises).

Whereas Protestant has filed before the ABC Board a protest opposing the granting of this application;

Whereas in recognition of the ABC Board's policy of encouraging parties to a protested proceeding to settle their differences by reaching voluntary agreements, by their signatures below, the parties hereto desire to enter into a voluntary agreement whereby (1) Applicant will agree to adopt certain measures to address Protestant's concerns and to include this agreement as a formal condition of its application, and (2) Protestant will agree to the issuance of the new license and withdraw its protest provided that such an agreement is incorporated into the ABC Board's order issuing the license, which license is conditioned upon compliance with this agreement;

Whereas Applicant has recently taken or intends to take certain measures designed to ameliorate Protestant's concerns;

In consideration of the mutual covenants and undertakings memorialized herein, the Applicant and Protestants herby agree as follows:

A. NOISE. Applicant acknowledges familiarity with and will comply with noise-control provisions of the District of Columbia law and regulations, including preventing emissions of sound, capable of being heard outside the premises, by any musical instrument or amplification device or other device or source of sound or noise, in accordance with DCMR 905. Live music and performances will conclude thirty minutes prior to closing. Applicant will regularly monitor to assure no impact on nearby residents. The entrance door of the premises will be kept closed at all times during business hours when music is being played or any sound amplification device is being employed in the premises, except when persons are in the act of using the door for ingress to or egress from the premises, and any emission of sound during such circumstances will not be deemed a violation of this provision. Applicant agrees to restrict all events to those run by Applicant and will not contract the Premises for any special events to be operated by an outside contractor. Applicant agrees to implement sound suppression measures that will mitigate any noise from this establishment so that the music may not be heard in surrounding resident's homes.

B. SAFETY & SECURITY. Applicant agrees to provide a security plan for inclusion in ABC Board and Protestant files. Applicant agrees to notify Protestant in a timely fashion of any significant ABRA violations or any safety/security events requiring MPD involvement.

C. FOOD AND ALCOHOL SERVICE. Applicant will have full hours as the law provides for this license assigned. Applicants agree that the establishment will be shut down and completely vacated, except for accounting with performers, routine maintenance, and clean up by closing time each night. Applicant will be held to a standard of 15% of the gross annual receipts from the sale of food or have annual gross food sales of \$1,000 per permanent seat (this will be reviewed in the future). Applicant agrees that there will be no after-hours activities in the establishment. Applicant will not change hours of operations without the express written consent of Protestant.

D. TRASH/GARBAGE/RODENTS. Applicant shall maintain trash/garbage removal service at least three times weekly and see that the trash and dumpster area remains clean. Applicant shall deposit trash and garbage only in rodent-proof dumpsters and shall see that dumpster covers fit properly and remain fully closed except when trash or garbage is being added or removed. Applicant will make every reasonable effort to eliminate accessible sources for rodents and eliminate the rat population. Applicant will have professional extermination services or provide them as needed. Applicant shall request that its trash and recycling contractors pick trash and materials between the hours of 9am-6Pm.

E. CAPACITY. Applicant shall at all times adhere to its occupancy limit as specified in its Certificate of Occupancy Permit, which shall remain posted in public view at all times. Applicant shall encourage patrons to depart the establishment quietly. Applicant will make every reasonable effort to make sure a sign encouraging patrons to be respectful of neighbors is visible to everyone exiting premises. Applicant will take necessary steps to control the noise generated by the operation of any outdoor space to avoid disturbing nearby residents.

F. PARKING. Applicant will encourage transit use, and will direct patrons to use nearby public parking facilities rather than parking on residential streets.

G. SIGNAGE/PUBLICITY. Signage shall be coordinated and approved by DC Historic Preservation Office. Applicant agrees that there will be no alcohol advertisements visible through the windows of this establishment. Applicant shall emphasize food over alcoholic beverages.

H. TRANSFERABILITY. Applicant shall provide Protestant with forty-five (45) days notice of intent to transfer the Class CX license for premises.

I. MODIFICATION OF VOLUNTRARY AGREEMENT. This agreement can be modified only by mutual agreement of the parties with the approval of the ABC Board for acceptance and enforcement.

J. BINDING EFFECT. This Voluntary Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant during the term of the license to which this Voluntary Agreement applies.

K. NOTICE AND OPPORTUNITY TO CURE. In the event that any of the parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within thirty days of the date of such notice. If Applicant or the licensee fails to cure within the thirty day period (or, with respect to a breach which reasonably requires more than thirty days to cure, fails to commence cure of such breach and diligently pursues such cure) failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to DC Official Code 25-447. Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and mailed via certified mail, return receipt requested, postage prepaid, or hand delivered, to the other parties to this Agreement at the following addresses. Notice shall be deemed given as of the time of receipt or refusal of receipt.

If to Applicant: Will Eastman, U Street Music Hall, 1115 U St. NW, Washington, DC 20009

If to Protestant: ANC1B, PO Box 73710, Washington, DC 20056

Wherefore, by the signing of the representatives of Applicant and Protestant, Applicant hereby agrees to aforementioned covenants and Protestants agrees to the issuance of the Class CX license to Applicant, and withdraws its protest, provided that this agreement is incorporated into the ABC Board's order issuing a Class CX license, the issuance of which is conditioned upon compliance with the Voluntary Agreement


Will Eastman, for U Street Music Hall


Chairman, ANC1B
E. Gail Anderson Holness


Commissioner ANC1B02

Accordingly, on this 31st day of January, 2010 it is ordered that the Voluntary Agreement between Applicant and Protestant is incorporated into the ABC Board's order issuing Applicant an amended Class CT license.